

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 Keith Donald,

5 Plaintiff,

6 v.

7 Chris Lee, et al.,

8 Defendants.

Case No. 2:25-cv-00064-RFB-BNW

9 ORDER

10 Presently before the Court is pro se Plaintiff's motion for appointment of counsel (ECF
11 No. 50), filed on May 6, 2025. No opposition has been filed.

12 I. BACKGROUND

13 Plaintiff brings a lawsuit under 42 U.S.C. § 1983 against officials of the North Las Vegas
14 Municipal Court for violating the First, Fourth, Fifth, Eighth, Ninth, Eleventh, Thirteenth, and
15 Fourteenth Amendment. Broadly, Plaintiff alleges he was not afforded due process of law from
16 Case No. CR004082-23, a case involving his arrest for obstructing a police officer's duties and
17 stalking. First, Plaintiff alleges that "a lacking record of conflict regarding his alleged victim of
18 stalking" is in violation of the First Amendment. Next, he alleges he was falsely imprisoned and
19 illegally stopped without probable cause in violation of the Fifth and Fourteenth Amendment. In
20 addition, he alleges that the conditions of his pretrial supervision despite posting bond were in
21 violation of the Eight Amendment. He alleges that the determination of incompetence in his case
22 was a violation of the Thirteenth Amendment. Finally, he alleges ineffective assistance of counsel
23 against all Defendants and the existence of a government conspiracy against him.

24 Also before the Court is a motion to dismiss by Defendants Chris Lee, Lawrence Phillips,
25 Erin Tellez, Bianca Cardenas, Leslie Park, Kenneth Frizzel (ECF No. 22). Defendants Frizzle and
26 Phillips filed separate motions to dismiss (ECF No. 30 and ECF No. 33, respectively). Plaintiff
27 opposed those motions.
28

1 Now, Plaintiff requests a court-appointed attorney, arguing “exceptional circumstances”
2 and “public interest ramifications.” ECF No. 50.

3 **II. ANALYSIS**

4 “The court may request an attorney to represent any person unable to afford counsel.” 28
5 U.S.C. § 1915(e)(1). Federal courts do not, however, have the authority “to make coercive
6 appointments of counsel.” *Mallard v. U.S. Dist. Court*, 490 U.S. 296, 310 (1989); *see also United*
7 *States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (forfeiture proceedings).
8 “The court may appoint counsel . . . only under ‘exceptional circumstances.’” *Terrell v. Brewer*,
9 935 F.2d 1015, 1017 (9th Cir. 1991) (Bivens action); *see also Palmer v. Valdez*, 560 F.3d 965,
10 970 (9th Cir. 2009) (section 1983 action); *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103
11 (9th Cir. 2004) (Bivens action); *Burns v. Cty. of King*, 883 F.2d 819, 824 (9th Cir. 1989) (per
12 curiam) (section 1983 action); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984) (section
13 1983 action). “A finding of exceptional circumstances requires (1) an evaluation of both the
14 likelihood of success on the merits and (2) the ability of the petitioner to articulate his claims pro
15 se in light of the complexity of the issues involved. Neither of these factors is dispositive and both
16 must be viewed together before reaching a decision.” *Terrell*, 935 F.2d at 1017 (citing *Wilborn v.*
17 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (section 1983 action)) (cleaned up); *see also*
18 *Palmer*, 560 F.3d at 970; *\$292,888.04 in U.S. Currency*, 54 F.3d at 569; *Wood v. Housewright*,
19 900 F.2d 1332, 1335–36 (9th Cir. 1990) (section 1983 claims). Appointment of counsel may be
20 justified when proceedings will go forward “more efficiently and effectively.” *Johnson v.*
21 *California*, 207 F.3d 650, 656 (9th Cir. 2000) (per curiam).


22 **A. Likelihood of success**

23 The first prong that must be analyzed is the likelihood of success on the merits. It is
24 impossible to make this determination at this junction as motions to dismiss are pending (ECF
25 No. 22, ECF No. 30, and ECF No. 33). In addition, Plaintiff has filed a motion to amend (ECF
26 No. 57), with an accompanying 43-page proposed amended complaint, which Defendants can
27 oppose no later than July 13, 2025. The analysis of that motion will likely impact the
28 determination regarding his likelihood of success.

Plaintiff does not articulate why the circumstances are exceptional, warranting appointment of counsel. It appears that some of the facts in the operative complaints are complex. But Plaintiff has been able to navigate the process thus far, filing both a complaint (ECF No. 7) and a motion to amend his complaint (ECF No. 37). In addition, he has been able to oppose the pending motions to dismiss. Thus, at this juncture, there is no evidence to suggest that Donald cannot articulate his claims pro se.

The courts see hundreds of these requests, but unfortunately, Plaintiff has not sufficiently alleged “exceptional circumstances” at this juncture. **IT IS ORDERED** that Plaintiff’s Motion for Appointment of Counsel (ECF No. 50) is **DENIED** without prejudice.

DATED: July 8, 2025


BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE